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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HABAKKUIA MALONE, RICHARD MOYER,
individually and on behalf of all those similarly
situated,

Plaintiffs,

vs.

DEPOSITORS INSURANCE COMPANY,
NATIONWIDE AFFINITY INSURANCE
COMPANY OF AMERICA, NATIONWIDE
ASSURANCE COMPANY, NATIONWIDE
GENERAL INSURANCE COMPANY,
NATIONWIDE INSURANCE COMPANY OF
AMERICA, NATIONWIDE MUTUAL
INSURANCE COMPANY, and DOES 1 through
10,

Defendants.

Case No.: 2:21-cv-00574-RFB-BNW

STIPULATION AND PROPOSED
ORDER EXTENDING
DEADLINE FOR PLAINTIFFS
TO FILE AMENDED
COMPLAINT

Plaintiffs HABAKKUIA MALONE and RICHARD MOYER (“Plaintiffs”), by and
through their counsel of record, Robert T. Eglet, Esq., Tracy A. Eglet, Esq., and Danielle C.
Miller, Esq. of the law firm EGLET ADAMS and Matthew L. Sharp, Esq. of the law firm
MATTHEW L. SHARP, LTD., and Defendants DEPOSITORS INSURANCE COMPANY,

1 NATIONWIDE AFFINITY INSURANCE COMPANY OF AMERICA, NATIONWIDE
2 ASSURANCE COMPANY, NATIONWIDE GENERAL INSURANCE COMPANY,
3 NATIONWIDE INSURANCE COMPANY OF AMERICA, AND NATIONWIDE MUTUAL
4 INSURANCE COMPANY (collectively, “Nationwide”), by and through their counsel of record,
5 Richard C. Gordon, Esq. of the law firm SNELL & WILMER LLP, Michael H. Carpenter, Esq.
6 of the law firm of CARPENTER LIPPS & LELAND, LLP, and Aneca E. Lasley, Esq. of the law
7 firm ICE MILLER, for good cause shown, hereby stipulate and agree as follows:

8 1. Plaintiffs filed their Complaint in the Eighth Judicial District Court for Clark
9 County, Nevada, Case No. A-21-829914-B. Nationwide removed this action to this Court on
10 April 7, 2021.

11 2. On April 9, 2021, Nationwide moved to dismiss Plaintiffs’ Complaint [ECF No.
12 7] (the “Motion”).

13 3. Plaintiffs filed their Response to Nationwide’s Motion on May 4, 2021 [ECF No.
14 17].

15 4. Nationwide filed a Reply in support of the Motion on May 6, 2021. [ECF No. 18].

16 5. That on February 9, 2021, the Honorable Richard F. Boulware, II heard
17 Nationwide’s Motion to Dismiss and dismissed with prejudice all claims except the breach of
18 implied covenant of good faith and fair dealing claim, tortious bad faith claim, and the Deceptive
19 Trade Practices Act claim, which were dismissed without prejudice. The Court granted Plaintiffs
20 leave to file an Amended Complaint with respect to Plaintiffs’ claims that were dismissed without
21 prejudice on or before Friday, March 11, 2022 [ECF No. 29].

22 6. Because the claims that were dismissed without prejudice must be pled with
23 particularity, Plaintiffs need additional time to review Plaintiffs’ e-mail correspondence, records,
24 and bank statements going back at least two (2) years, to the beginning of the COVID-19
25 pandemic. Given how much time has passed and given the burden of pleading Plaintiffs’ claims
26 with particularity, Plaintiffs need additional time to thoroughly review their records to obtain this
27 information. Plaintiffs will also have to request some of this information from third parties, which
28 may take additional time.

1 7. Thus, the Parties hereby stipulate that Plaintiffs shall have an additional sixty (60)
2 days to file an Amended Complaint.

3 8. That Plaintiffs' Amended Complaint shall be due on or before May 11, 2022.

4 9. That Nationwide shall have an extension of thirty (30) days to file a Motion to
5 Dismiss Plaintiffs' Amended Complaint.

6 10. The Parties agree that discovery remains stayed pending Plaintiffs filing an
7 Amended Complaint and resolution of Defendant's anticipated Motion to Dismiss Plaintiffs'
8 Amended Complaint.

9 11. In this District, requests to stay discovery may be granted when: (1) the pending
10 motion is potentially dispositive; (2) the potentially dispositive motion can be decided without
11 additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the
12 potentially dispositive motion. *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 602 (D. Nev. 2011).
13 In doing so, the court must consider whether the pending motion is potentially dispositive of the
14 entire case, and whether that motion can be decided without additional discovery. *See Federal*
15 *Housing Finance Agency v. GR Investments LLC*, Case No. 2:17-cv-03005-JAD-EJY, 2020 WL
16 2798011 at *3 (D. Nev. May 29, 2020) (granting motion to stay discovery pending resolution of
17 potentially dispositive motion for summary judgment); *see also Mintun v. Experian Information*
18 *Solutions, Inc.*, 2:19-cv-00033-JAD-NJK, 2019 WL 2130134 at **1-2 (D. Nev. May 15, 2019)
19 (granting motion to stay discovery pending resolution of potentially dispositive motion to
20 dismiss).

21 12. The Parties agree that Nationwide's anticipated Motion to Dismiss raises
22 potentially dispositive legal and jurisdictional defenses to Plaintiffs' claims concerning
23 Nationwide's auto insurance rates during the COVID pandemic.

24 13. Pending resolution of Nationwide's anticipated Motion to Dismiss, the Parties
25 agree and stipulate to a stay of discovery including, but not limited to, any discovery obligations
26 set forth in Fed. R. Civ. P. 26 and LR 26-1. The Parties are in agreement that a stay of discovery
27 is warranted at this time. Moreover, discovery is not required to resolve Nationwide's anticipated
28 Motion.

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14. If the Court denies Nationwide's Motion to Dismiss, in whole or in part, the Parties agree to submit a Discovery Plan and Scheduling Order within thirty (30) days after entry of the Court's Order on the Motion.

15. The Parties respectfully suggest that good cause exists to enter the stipulated stay of discovery to preserve judicial and party resources and based on application of the factors set forth in paragraph 11, above.

16. The Parties represent that this stipulation is sought in good faith, is not interposed for delay, and is not filed for an improper purpose.

DATED this 10th day of March, 2022.

DATED this 10th day of March, 2022.

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SNELL & WILMER LLP

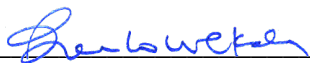
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ORDER

Based upon the Parties' stipulation and GOOD CAUSE APPEARING THEREFOR, IT IS SO ORDERED:

IT IS SO ORDERED.


 UNITED STATES MAGISTRATE JUDGE
 DATED: March 11, 2022